

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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CLAUDIUS ENGLISH,

Petitioner,

-against-

JOHN/JANE DOE, ET AL.,

Respondents.  
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18 Civ. 3862 (LGS)

**ORDER**

LORNA G. SCHOFIELD, United States District Judge:

WHEREAS, on November 16, 2018, Judge Fox issued a Report and Recommendation to grant Petitioner's Petition for Writ of Habeas Corpus (Dkt. No. 9).

WHEREAS, Judge Fox's November 16, 2018, Report and Recommendation stated that "the parties shall have fourteen (14) days from service of this Report to file written objections" (Dkt. No. 9).

WHEREAS, by Order dated December 12, 2019, this Court extended the deadline for Petitioner to file objections to the Report and Recommendation nunc pro tunc from November 30, 2018, to December 31, 2018 (Dkt. No. 11).

WHEREAS, no objections have been filed.

WHEREAS, in reviewing a Report and Recommendation of a magistrate judge, a district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). "In a case such as this one, where no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Poulos, v. City of New York*, No. 14 Civ. 3023, 2018 WL 3745661, at \*1 (S.D.N.Y. Aug. 6, 2018) (internal quotation marks omitted).

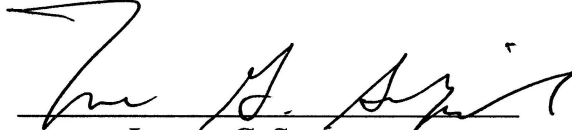
WHEREAS, the Court finds no clear error on the face of the record. It is hereby **ORDERED** that the Report and Recommendation is adopted. In addition, the Petition for Writ of Habeas Corpus is also denied because:

- (1) Petitioner failed to exhaust his state court remedies without a valid excuse, thus the request to stay the state court proceeding -- or a request for release from state custody -- is denied for failure to exhaust state court remedies. *See Adams v. Canty*, No. 14 Civ. 2611, 2014 WL 2566913, at \*1 (E.D.N.Y. June 6, 2014) (“A petitioner who has not exhausted available state court remedies may only seek a writ of habeas corpus under § 2241 if he establishes cause for his failure to exhaust and prejudice as a result of the alleged violation of federal law, or demonstrates that the failure to consider his claims will result in a fundamental miscarriage of justice.”).
- (2) To the extent that Petitioner challenges his previous federal detention at the Metropolitan Detention Center, where he was housed at the time he filed his application, this request is moot because he was moved and is currently detained at the Metropolitan Correction Center (“MCC”). *See Allen v. Lindsay*, No. 09 Civ. 1283, 2010 WL 5067907, at \*2 (E.D.N.Y. Dec. 7, 2010) (“[W]hen a petitioner is transferred from a facility, any claims for injunctive relief against that facility become moot.”). Plaintiff does not raise any issue as to his current pretrial detention at MCC, and “as a general rule, ‘in the absence of exceptional circumstances in criminal cases [,] the regular judicial procedure should be followed and *habeas corpus should not be granted in advance of a trial.*’” *Campbell v. United States*, No. 14 Civ. 7446, 2015 WL 1540524, at \*2 (E.D.N.Y. Apr. 7, 2015) (emphasis and alteration in original).

In summary, for the reasons stated in the Report and Recommendation and this Order, Petitioner's Petition for Writ of Habeas Corpus is DENIED.

The Clerk of Court is respectfully directed to mail a copy of this Order to pro se Petitioner and close this case.

Dated: February 4, 2019  
New York, New York



**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**